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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,955	10/05/2000	Karl Freudelsperger	68626	7444
23872	7590	01/16/2004	EXAMINER	
MCGLEW & TUTTLE, PC 1 SCARBOROUGH STATION PLAZA SCARBOROUGH, NY 10510-0827			KRIZEK, JANICE LEE	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/647,955

Applicant(s)

FREUDELSPERGER ET AL.

Examiner

Janice L. Krizek

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 34-63 and 67-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-63 and 67-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 34-63 and 67-69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "a stack-of-articles support to be filled with a row of articles... and to fix a press-in stack of articles without a magazine", found in lines 11-13 of claim 34, is unclear with respect to the function performed by the support.

The recitation "said stack-of-articles support having one of a lower or upper individual article ejector, which is displaceable in a transverse direction of the stack of articles", found in lines 16-17 of claim 34, is unclear with respect to the features possessed by the support and with respect to the direction the article ejectors are displaceable in.

The recitation "said holding-up device individually pushing a topmost article... to reach a selected article shaft either under the force of gravity or by said upper individual article ejector", found in lines 20-23 of claim 34, is unclear with respect to the pushing function performed by the holding-up device.

The recitation "an article-handling unit, which is movable... and removes articles... and transports articles... from an acceptance region, or from and to a supply

bay", found in lines 3-5 of claim 38, is unclear with respect to the transporting function performed by the article-handling unit.

The recitation "said longitudinal stack-of-articles clamping plate presses... a stack of articles...in a transverse direction of the stack", found in lines 6-8 of claim 39, is unclear with respect to the pressing function performed by the clamping plate.

The recitation "a stack-of-articles stacker plate, which has a shape of a part of at least one bay level", found in lines 2-3 of claim 43, is unclear with respect to the shape of the stacker plate.

The recitation "said bay-storage and retrieval unit being displaceable for taking over an article by movement to the stack-of-articles stacker plate via a rail or guide system", found in lines 4-5 of claim 43, is unclear with respect to the function performed by the storage and retrieval unit and with respect to the structure along which the unit moves.

The recitation "said angle sheet irons are doubly sloped", found in the second line of claim 48, is unclear with respect to the shape of the irons.

The recitation "said stack of articles picked up in the chute has a longitudinal fixing aid", found in the second line of claim 50, is unclear with respect to how a stack can possess a fixing aid.

The recitation "the supply bay is a double bay, which is arranged back to back", found in the second line of claim 54, is unclear with respect to the arrangement of the supply bay.

The recitation "said transverse rail is rigidly or telescopically fastened on a vertically displaceable lifting carriage", found in lines 4-5 of claim 58, is unclear with respect to how the rail is fastened on the lifting carriage.

The recitation "a plurality of stacks of articles can be conveyed...from a buffer or from the stack-of-articles pick-up", found in lines 5-7 of claim 59, is unclear with respect to the way in which the stacks are conveyed.

The recitation "said vertically adjustable article bay loading unit includes a gripping unit or stack-of-articles support", found in lines 10-11 of claim 59, is unclear with respect to the features which the loading unit possesses.

The recitation "a support for holding a stack of the articles with a longitudinal axis in a predominately vertical direction", found in lines 8-10 of claim 67, is unclear with respect to how the support holds a stack. Which entity, the support or the stack, possesses the claimed longitudinal axis?

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

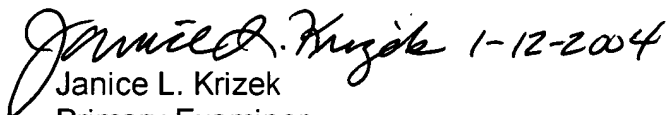
4. Claims 34-63 and 67-69 are rejected under 35 U.S.C. 102(a) as being anticipated by Neukam (EP 0 795 495).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Janice Krizek whose telephone number is (703) 308-2026. The examiner can normally be reached on Mondays through Fridays from 11:30 a.m. to 8:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis, can be reached at (703) 308-3248. The central official fax number is (703) 872-9306.

Art Unit: 3652

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-1113.

 1-12-2004  
Janice L. Krizek  
Primary Examiner  
Technology Center 3600